IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 6330 of 2005

Between:

Md.Nazeeruddin S/o.Imamuddin
Nalgonda Bus Depot, Nalgonda.

..... PETITIONER

AND

The Depot Manager, APSRTC,
Nalgonda Bus depot, Nalgonda

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue a wit or order or direction more particularly one in the nature of writ of mandamus declaring that the action of the respondents in imposing the punishment of deferment of annual increment when next falls due for a period of one year which shall have effect on further increments as bad, arbitrary, illegal, unjust and unreasonable and violative of principles of natural justice and contrary to the judgments of this Hon'ble court and also the apex court by setting aside the final order No.P2/1(144/90-NLG dt.30-3-1991 and consequently direct the respondent to add the deferred increment and pay the arrears and pass such other order or orders

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court, at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 6330 of 2005

ORDER:

The petitioner is working as a Driver in the respondent-Corporation. He was issued a charge memo on 01-12-1990 on the allegation of some irregularities committed by him in attending charted duty and after receiving the explanation of the petitioner, the final orders were passed on 30-03-1991 imposing the penalty of withholding of one incremental stage for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment for a period of one year with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the order is illegal and it is liable to be set aside.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 15 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh** Gill (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment for one year without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of one annual increment for one year without cumulative

effect.

4. The Writ Petition is accordingly disposed of with the above observations. No costs.

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March 25, 2005

KVR

To

1. The Depot Manager, APSRTC,

Nalgonda Bus depot, Nalgonda

2. 2 CD copies.